

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

JANE DOE, a minor, by JOHN DOE
and SUSAN DOE, her parents and
natural guardians,

Plaintiffs,

v.

Civil Action No. 08-0910

UPPER ST. CLAIR SCHOOL DISTRICT,
and DR. PATRICK T. O'TOOLE, in his
individual capacity and as
Superintendent of Schools, and DR.
TERRENCE KUSHNER, in his individual
capacity and as Assistant
Superintendent and Director of
Secondary Education, and
DR. MICHAEL GHILANI, in his
individual capacity and as
Principal, and DR. SHARON SURITSKY
in her individual capacity and as
Supervisor of Special Education,
and JACE B. PALMER, in his
individual capacity and as
Assistant Principal, and
LOU ANGELO, in his individual
capacity and as Assistant
Principal, and ESTHER R. von
Waldow, f/k/a/ ESTHER R. HAGUEL,
in her individual capacity as
Intervention Specialist, and
JENNIFER WAGNER, in her individual
capacity as a Teacher,

Defendants.

MEMORANDUM ORDER

AND NOW, this 18th day of May, 2009, IT IS HEREBY ORDERED
that the motion to compel production of documents responsive to
defendants' January 26, 2009 subpoenas [doc. no. 73] is GRANTED.¹

¹ The subpoenas at issue were served upon Allegheny County
District Attorney Patrick Schulte and Attorney Caroline M. Roberto,

IT IS FURTHER ORDERED that Attorneys Schulte and Roberto shall provide defendants with a full and complete copy of all of documents relating to the criminal proceeding in the Court of Common Pleas of Allegheny County, Pennsylvania, captioned: In the Interest of C.N., Docket No. JV-08-000346, excluding any documents protected by the attorney-client privilege, within twenty (20) days of the date of this Order. For purposes of this Order, said documents will hereinafter be referred to as "AGH/Roe Documents."

IT IS FURTHER ORDERED that, until further Order of the court, if any, the AGH/Roe Documents are deemed confidential and will be stamped "CONFIDENTIAL ATTORNEY EYES ONLY INFORMATION." The AGH/Roe Documents are not to be accessible to anyone other than the counsel of record in this case, except that counsel of record in this case may share said documents with any expert retained for

counsel for "Michael Roe." The subpoenas seek documents relating to the criminal proceeding captioned: In the Interest of C.N., Docket No. JV-08-000346. Both Mr. Schulte and Ms. Roberto have been served with a copy of the instant motion; however, neither Mr. Schulte nor Ms. Roberto has filed any response. Ms. Roberto did respond to the defendants' subpoena via letter [doc. no. 73-3] indicating that she did not intend to comply with the subpoena. Ms. Roberto cited 42 Pa. Const. Stat. Ann. § 6336(d) in support of her position that the documents relating to the juvenile criminal proceedings are confidential and not discoverable in this case.

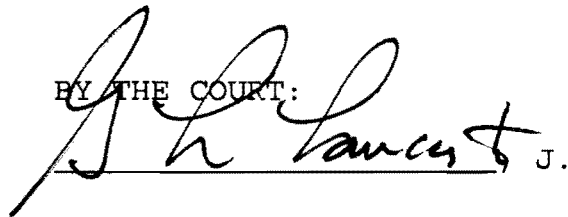
We direct the parties to the court's order of March 19, 2009 [doc. no. 62] denying the motion to quash subpoena filed by the Township of Upper St. Clair and the Upper St. Clair Police Department [doc. no. 59]. The order explains that state statutory confidentiality provisions do not govern discovery disputes in federal cases involving federal law. See Pearson v. Miller, 211 F.3d 57, 66 (3d Cir. 2000).

purposes of this litigation. Any expert to whom the AGH/Roe Documents are disclosed must abide by the terms of this Order.

IT IS FURTHER ORDERED that if any counsel of record believes it is necessary to share any AGH/Roe Documents with someone other than a person who is permitted to review the documents under the foregoing provisions, he or she may move the court to do so.

IT IS FURTHER ORDERED that within thirty (30) days after final conclusion of this case (including conclusion of any appeals) all counsel of record in possession of any of the AGH/Roe Documents, and any expert in possession of any of the AGH/Roe Documents will destroy said documents.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J. H. Lancaster", is written over a horizontal line. The signature is cursive and stylized.

cc: All Counsel of Record

Caroline M. Roberto, Esquire
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Pittsburgh, Pennsylvania 15219

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